

FROM: A. Brent Truitt

PHONE NO.: 845 586 5122

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PORTSIDE GROWTH AND OPPORTUNITY FUND,

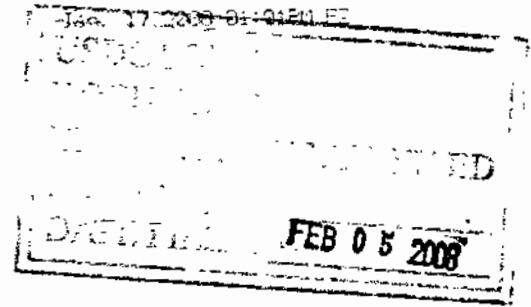
Plaintiff,

-against-

EARTH BIOFUELS, INC.,

Defendant.

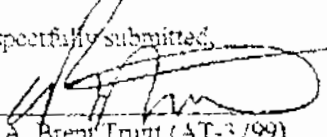
1:07-cv-5582-GBD

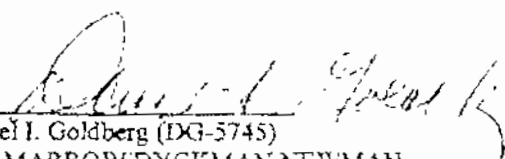
STIPULATION AND ORDER OF DISMISSAL WITHOUT PREJUDICE

Plaintiff Portside Growth and Opportunity Fund ("Portside"), and Defendant Earth Biofuels, Inc. ("Earth Biofuels") have agreed to dismiss all claims pending in this litigation without prejudice with each party (except as they may have otherwise agreed in writing) to bear its own costs and attorneys' fees. Accordingly, pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii), the parties respectfully request that this Court enter an order dismissing this case in its entirety without prejudice.

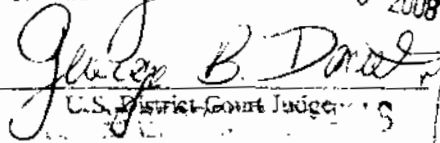
Date: New York, New York
January 17, 2008

Respectfully submitted,

By 
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IT IS SO ORDERED this 4 day of February, 2008. FEB 05 2008


George B. Daniels
U.S. District Court Judge